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EXAMINER

CHIN, PAUL T

ART UNIT PAPER NUMBER

3652

DATE MAILED: 09/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/849,041

Applicant(s)

REINERS ET AL.

Examiner

PAUL T. CHIN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-12,16-20 and 23-30 is/are rejected.
- 7) ☒ Claim(s) 8,13-15,21 and 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "a low point of said load-carrying frame at a level not substantially above said wheels" (claim 16, lines 23-25) is not clearly understood. Figure 20 clearly shows that the low point of the load-carrying frame (19) is at the level above the wheel (16,16).

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 16, as best understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Klockow et al. [the German Patent DE 2,456,791].

Klockow et al. [the German Patent DE 2,456,791] discloses a cart conveyor system comprising an inclined conveyor mechanism including laterally spaced, opposed endless conveyor bands (Fig. 3), and wheeled load carrying cart (Fig. 2) having a frame (42,44), and having front, and back ends, the cart being provided with spaced apart first wheels (12,12) at one end and wheel means which has at least one wheel (14), and the conveyor mechanism having track means (20,22) for the respective sets of first and second wheels at opposite ends of the cart whereby the cart is maintained in a substantially horizontal orientation while engaged by the conveyor mechanism, the

improvement comprising the conveyor bands (see Fig. 3) being engageable with the cart closely adjacent the first wheels for controlling the advance of the cart along the conveyor mechanism.

It is pointed out that Klockow et al. [the German Patent DE 2,456,791] shows the conveyor bands (Fig. 3) that are engageable with the cart adjacent the first wheels (12) and at a level not substantially higher than the first wheels (12) (see Fig. 2) and *a containment housing* (see Fig. 3) covering at least top portions of the conveyor band and extending laterally at a level not higher than the low point of the frame (see Fig. 2).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1,2,9,10,17-19, and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klockow et al. [the German Patent DE 2,456,791] in view of Engeler [the German Patent DE 2,009,806].

Re claims 1,2,17,25, and 26, Klockow et al. [the German Patent DE 2,456,791], as presented in section 3 above, does not show *a retaining track* extending lengthwise along the inclined conveyor mechanism and *an anti-lift* extending between the cart and the retaining track adjacent the other end of the cart.

However, Engeler [the German Patent DE 2,009,806] discloses *a retaining track* (5,5.2) extending lengthwise along the inclined conveyor mechanism and *an anti-lift*

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*element* (see Figs. 2 and 5) extending between the cart and the retaining track adjacent the other end of the cart. Accordingly, it would have been an obvious design choice to provide *a retaining track* and *an anti-lift element* on the Klockow et al.'s conveyor system [the German Patent DE 2,456,791] as taught by Engeler so that the anti-lift element would also retain the front portion of the cart.

Re claims 9 and 10, it is pointed out that Klockow et al.'s conveyor system [the German Patent DE 2,456,791] in view of Engeler shows an open sided load carrying section of generally J-shaped configuration (see Fig. 1) and the conveyor having containment housings for the conveyor bands.

Re claims 18 and 27, Klockow et al. [the German Patent DE 2,456,791] does not show *a pair of wheels* spaced apart a distance less than the first wheels.

However, Engeler [the German Patent DE 2,009,806] shows *a pair of wheels* (see Figs. 2 and 5) spaced apart a distance less than the first wheels. Accordingly, it would have been an obvious design choice to provide *a pair of wheels* (see Figs. 2 and 5) (instead of a single wheel) designed to be spaced apart a distance less than the first on the Klockow et al.'s conveyor system [the German Patent DE 2,456,791] as taught by Engeler to provide more stability.

Re claim 19, it is pointed out that the modified Klockow et al. [the German Patent DE 2,456,791] shows that the bottom elements of the load-carrying frame are inclined upwardly and forwardly substantially at the angle of inclination of an upwardly inclined conveyor mechanism (see Fig. 1).

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Re claims 29 and 30, it is point out that modified Klockow et al. [the German Patent DE 2,456,791] clearly shows at least one endless conveyer bands which are engageable with the cart adjacent to the back and at a level adjacent to the level of the first wheels (see Fig. 2).

6. Claims 23 and 24, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Klockow et al. [the German Patent DE 2,456,791] in view of Engeler [the German Patent DE 2,009,806], as applied to claims 16 and 17 above, and further in view of Krivec [U.S. Patent 4,168,771].

Klockow et al. [the German Patent DE 2,456,791] in view of Engeler [the German Patent DE 2,009,806], as presented in sections 3 and 5 above, does not show *track means being formed of a series of free rotating rollers*.

However, Krivec [U.S. Patent 4,168,771] shows *track means being formed of a series of free rotating rollers* and it would have been an obvious design choice to provide shows *track means being formed of a series of free rotating rollers* on the modified Klockow et al.'s device as taught by Krivec [U.S. Patent 4,168,771] so that the wheels of the cart could be carried on the rollers to minimize friction. It also would have been an obvious design choice to provide the rollers to be arranged side-by-side on the modified Klockow et al.'s device as taught by Krivec [U.S. Patent 4,168,771] to provide a better support and stability.

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7. Claims 1,2,25-27, and 29, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Weller [US Patent 3,655,013] in view of Decker et al. [US Patent 5,529,163].

Weller [US Patent 3,655,013] discloses a cart conveyor system comprising an inclined conveyor mechanism including laterally spaced, opposed endless conveyor bands (Fig. 2), and wheeled load carrying cart (2) (Fig. 1) having a frame (9), and having front, and back ends, the cart being provided with spaced apart first wheels (4,4) at one end and wheel means which has a pair of wheels (3,3), and the conveyor mechanism having track means (5,6) for the respective sets of first and second wheels at opposite ends of the cart whereby the cart is maintained in a substantially horizontal orientation while engaged by the conveyor mechanism, the improvement comprising the conveyor bands (7,8) (see Fig. 2) being engageable with the cart closely adjacent the first wheels for controlling the advance of the cart along the conveyer mechanism.

Re claims 1,25, and 26, Weller [US Patent 3,655,013] does not show *a retaining track* extending lengthwise along the inclined conveyor mechanism and *an anti-lift* extending between the cart and the retaining track adjacent the other end of the cart.

However, Decker et al. [US Patent 5,529,163] discloses *a retaining track* (130) (Fig. 4) extending lengthwise along the inclined conveyor mechanism and *an anti-lift element* (112) (see Fig. 4) extending between the cart and the retaining track adjacent the other end of the cart. Accordingly, it would have been an obvious design choice to provide *a retaining track* and *an anti-lift element* on the Weller [US Patent 3,655,013] as

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taught by Decker et al. [US Patent 5,529,163] so that the anti-lift element would also retain the front portion of the cart to stabilize heavier load.

Re claim 29, it is point out that modified Weller [US Patent 3,655,013] clearly shows that at least one endless conveyor bands which are engageable with the cart adjacent to the back thereof (see Figs. 1 & 2).

8. Claims 3-7, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weller [US Patent 3,655,013] in view of Decker et al. [US Patent 5,529,163], as applied to claims 1 and 2 above, and further in view of the German Patent [DT 2,916,818].

Weller [US Patent 3,655,013] in view of Decker et al. [US Patent 5,529,163], as presented in section 7 above, does not show *an abutment bracket* or *a wheel-mounting bracket* mounted on the cart laterally adjacent to and laterally outside of the first wheels.

However, the German Patent [DT 2,916,818] shows *an abutment bracket* (25) (see Fig. 3) or *a wheel mounting bracket* mounted on the cart laterally adjacent to and laterally outside of the first wheels. Accordingly, it would have been an obvious design choice to provide *a wheel mounting bracket* to be mounted on the first wheel of modified Weller's system as taught by the German Patent [DT 2,916,818] in order to move the cart and to provide a better stability to the cart.

10. Claims 9-12, 16-18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weller [US Patent 3,655,013] in view of Decker et al. [US Patent 5,529,163], as applied to claims 1 and 2 above, and further in view of Klockow et al. [the German Patent DE 2,456,791].



Re claims 9 and 10, Weller [US Patent 3,655,013] in view of Decker et al. [US Patent 5,529,163], as presented in section 7 above, does not show an open sided load carrying section of *generally J-shaped configuration* (see Fig. 1) and *the conveyor having containment housings* for the conveyor bands.

However, Klockow et al. [the German Patent DE 2,456,791], as presented in detail in section 3 above, shows *an open sided load carrying section of generally J-shaped configuration* (see Fig. 1) and the conveyor having *containment housings* for the conveyor bands and it would have been an obvious design choice to provide *an open sided load carrying section of generally J-shaped configuration* (see Fig. 1) (instead of a shopping cart) and *containment housings* on the modified Weller's system as taught Klockow in order to carry the heavier loads and to protect an accident by covering the conveyor bands.

Re claims 11 and 12, Weller [US Patent 3,655,013] does not show the conveyor mechanism having an entry and an exit end and including *a load size limiting frame* at the entry end and the frame having a load greater than the cart.

However, Decker et al. [US Patent 5,529,163] shows a conveyor mechanism having an entry and an exit end (see Fig. 5) and including *a load size limiting frame* (36) at the entry end. It would have been an obvious design choice to provide *a load size limiting frame* on the Weller's system as taught by Decker et al. in order to limit overload of the cart.

Re claim 16 and 17, Weller [US Patent 3,655,013] in view of Decker et al. [US Patent 5,529,163], as presented in section 7 above, does not show *the conveyor having containment housings* for the conveyor bands.

However, Klockow et al. [the German Patent DE 2,456,791], as presented in detail in section 3 above, shows the conveyor having *containment housings* for the conveyor bands and it would have been an obvious design choice to provide *containment housings* on the modified Weller's system as taught Klockow in order to protect the conveyor bands from an accident.

Re claim 18, Weller [US Patent 3,655,013] clearly shows *a pair of wheels (3,3)* (see Fig. 2) spaced apart a distance less than the first wheels.

Re claim 20, Weller [US Patent 3,655,013] does not show the conveyor mechanism having an entry and an exit end and including *a load size limiting frame* at the entry end and the frame having a load greater than the cart. However, Decker et al. [US Patent 5,529,163] shows a conveyor mechanism having an entry and an exit end (see Fig. 5) and including *a load size-limiting frame (36)* at the entry end. It would have been an obvious design choice to provide *a load size limiting frame* on the Weller's system as taught by Decker et al. in order to limit overload of the cart.

#### ***Allowable Subject Matter***

9. Claims 8 and 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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10. Claims 21 and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PAUL T. CHIN whose telephone number is (703) 305-1524. The examiner can normally be reached on MON-THURS (7:30 -6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, EILEEN LILLIS can be reached on (703) 308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9325 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 316-4177.

ptc

PTC  
August 26, 2002



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